

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1896/P1dn
ARG:cjs:ph

April 5, 2013

ATTN: Elisabeth DeBeck

Please review the attached draft carefully to ensure that it is consistent with your intent.

As we discussed, I am not aware of any bill that has been drafted for the Wisconsin Legislature that directly amends or repeals provisions of the administrative code in a manner unrelated to the statutory procedure for rule suspension under ch. 227. Accordingly, this bill includes novel provisions. We have also included statutory treatments that we believe are necessary to make these rule treatments workable and consistent with the statutes. For example, a “rule” is defined in s. 227.01 (13) as “a regulation, standard, ... *issued by an agency* ...”, but these rule modifications are not issued by DOT; they result from legislative enactment.

As requested, this bill repeals the definition of “advanced skill” in Trans 309.02 (1). The instructions state that this term is not used elsewhere in the administrative code. However, in Trans 309.18 (2), the term “advance skills” is used. This draft does not treat Trans 309.18 (2).

As discussed, this draft does not include any treatment of Trans 205 corresponding to the instruction document “Trans 205; County trunk highway standards” because DOT recommended that this item be withdrawn from the request. The attached draft contains the other 24 rules changes identified in the drafting instructions.

I have not conducted any significant research on whether a bill enacted by the legislature and signed by the governor that modifies the details of executive branch rules might be subject to challenge under constitutional principles of separation of powers.

Please let me know if you would like any changes made to the attached draft or if you have any questions.

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